

REMARKS

Applicant has amended independent claims 3 and 17 to include the recitations of dependent claims 12 and 25, respectively. Applicant has also cancelled claims 12, 15-16, 25 and 28-29. Such amendments limit the subject matter on appeal and thus are proper as a matter of right pursuant to 37 CFR 1.113.

Claims 3-4, 10, 12, 15-17, 23, 25, 28 and 36-37 stand rejected under 35 USC §103(a) as being unpatentable over Pagdin (U.S. Patent No. 2,920,916) in view of Seaberg (U.S. Patent No. 6,135,704) in further view of Tygard (U.S. Patent No. 5,516,255). Claims 5-9, 13-14, 18-22 stand rejected under 35 USC §103(a) as being unpatentable over Pagdin in view of Tygard and Applicants Admitted Prior Art (AAPA). Claims 13-14 and 25-29 stand rejected under 35 USC §103(a) as being unpatentable over Pagdin in view of Tygard and AAPA and further in view of Milholen et al. (U.S. Patent No. 3,992,049). Claims 11 and 24 stand rejected under 35 USC §103(a) as being unpatentable over Pagdin in view of Tygard and further in view of Kintgen et al. (U.S. Patent No. 4,271,755). Applicant has amended claims 3 and 17 to more clearly define the present invention over the cited prior art. Applicant respectfully submits that the claims of the present invention are neither taught nor suggested by the prior art and Applicant requests reconsideration of the claims.

More particularly, claim 3 and 17 as amended recite, *inter alia*, ... a stacker machine having a moveable stacker head ... and **at least one support structure that is**

**operably disposed between bags disposed side-by-side** in said cross-stacked configuration to prevent such bags from sliding past one another **while not providing resistance to the opposed clamping forces**” (emphasis added). Nowhere does the prior art teach or suggest this feature. The Examiner points to the central core member described in Seaberg at col. 5, lines 54-60 as suggesting these features. Importantly, the clamp 39 of Seaberg employs four arms 40a-d that extend downward and form a substantially rectangular opening. Col. 3, lines 35-40. The present invention utilizes **“opposed clamping forces being applied to only two sides of the at least one group [of elongate bags].”** This configuration is simpler and less costly to design and use than the complex gripping apparatus of Seaberg. For these reasons, Applicant respectfully submits that claims 3 and 17 as amended are patentable over the cited prior art.

The systems described in Pagdin, Tygard, Milholen et al. and Kintgen et al. fail to address the shortcomings of Seaberg as set forth above.

As set forth above, the prior art fails to teach or suggest important features of amended claim 3 and 17. For these reasons, it is respectfully submitted that claims 3 and 17 as amended are patentable over the prior art.

The dependent claims are patentable over the cited prior art for those reasons advanced above with respect to independent claims 3 and 17 from which they respectively depend and for reciting additional features neither taught nor suggested by the cited prior art.

For example, claims 13 and 26 recite that this support structure is “at least one chain”. In yet another example, claims 14 and 27 recite that this support structure is “one of wire strands and rope strands.” Nowhere does the cited prior art teach or suggest these features. The Examiner states that these features would be obvious to one of ordinary skill in the art. Such analysis is flawed as there is no factual basis underlying the Examiner’s assertion. For this reason, Applicant respectfully submits that the Examiner has failed to establish a prima facie rejection of claims 13, 14, 26 and 27.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jay P. Sbrollini". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jay P. Sbrollini  
Reg. No. 36,266

GORDON & JACOBSON, P.C.  
60 Long Ridge Road, Suite 407  
Stamford, CT 06902  
(203) 323-1800

February 28, 2008